

Land Acquired Under Airport Noise Use Compatibility Programs

Nancy S. Williams, APP-501
Airports Financial Assistance
FAA Office of Airport Planning and Programming



**Federal Aviation
Administration**



Airport Noise Land

Compliance with Grant Assurance 31 was the basis of the audit.

The Assurance is codified at 49 USC 47101(c):

The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received, or will receive a grant for acquiring land and (A) if the land was or will be acquired for a noise compatibility purpose -

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project.

➤ Proposed Noise Land Disposal Effort (OIG Audit)

Office of Inspector General issued audit report:

“Management of Land Acquired Under Airport Noise Compatibility Programs” September 30, 2005

Audit focused on three areas:

- Identifying land no longer needed for noise compatibility purpose***
- Disposing of noise land through sales, leases, or other means***
- Ensuring that proceeds from disposed land is used for other noise compatibility projects or is returned to the Trust Fund***

Audit Report is On-line at <http://www.oig.dot.gov/item.jsp?id=1668>

➤ Proposed Noise Land Disposal Effort (OIG Audit)

Audit Covered 11 Airport Noise Programs at airports with noise land grants

Bellingham International Airport

Charlotte/Douglas International Airport

Cincinnati/Northern Kentucky International Airport

Detroit Metro Wayne County International Airport

Las Vegas McCarran International Airport

Palm Beach International Airport

Phoenix Sky Harbor International Airport

Reno-Tahoe International Airport

Seattle-Tacoma International Airport

Toledo Express Airport

Tucson International Airport

ü Proposed Noise Land Disposal Effort (OIG Audit)

Two Audit Results:

1) The Airports they reviewed “were not in compliance with grant requirements”

Ø “Airports have not disposed of sizable amounts of unneeded noise land”

“Airports are improperly using noise proceeds from noise land dispositions”

2) “FAA Program Oversight and Guidance Needed Strengthening”

➤ Proposed Noise Land Disposal Effort (OIG Audit)

Audit Report also included six specific recommendations.

FAA was given the opportunity to review the report and its recommendations prior to publication and offered responses.

➤ **Proposed Noise Land Disposal Effort (OIG Audit)**

- ***Overall FAA Concurrs in Program Improvements To Inventory and Dispose of Excess Land***
- ***Don't Agree that Land Value or Land to Retain is Known Yet.***
- ***Memo to Regions was issued about audit and initiatives***

➤ Proposed Noise Land Disposal Effort (OIG Audit)

OIG Recommendation 1. Ensure that sponsors (a) implement written, FAA-approved plans for disposing of AIP-funded noise land that is no longer needed for noise compatibility programs or for airport development, and (b) either return the proceeds from any dispositions to the Trust Fund or reinvest them in other FAA-approved noise mitigation projects at the airports.

FAA Agrees! New Grant Condition. Disposal Plan Part of Exhibit A. Plan Required before Grant Close-out Status Indicated on Exhibit A.

➤ Proposed Noise Land Disposal Effort (OIG Audit)

Recommendation 2. Improve program oversight by making disposal of unneeded noise land a high priority; by maintaining sustained surveillance of noise land; and by ensuring that basic information (such as airport master plans and land inventory maps) needed for effective program oversight is current, accurate, and complete.

FAA Agrees! Airport sponsors are already required to keep an updated Exhibit A, which shows the airport's property interests including noise land. As a supplement (part of the plan), an inventory map will be maintained to include status of disposition and use of funds from disposition.

➤ Proposed Noise Land Disposal Effort (OIG Audit)

Recommendation 3. Provide a program of continuing education to enhance FAA staffs' and airport sponsors' understanding of grant requirements and their impact.

FAA Agrees! We agreed that providing better educational material and direct training to FAA staff and airport sponsors (and consultants) will improve the program. We will offer sponsor and consultant training at the regional Airports' conferences (such as the Eastern Region Hershey Conference) and the Public Real Estate Conference, cosponsored by the FAA (as well as the other Federal Agencies) and International Right-of-Way Association, beginning in FY 2006.

➤ Proposed Noise Land Disposal Effort (OIG Audit)

Recommendation 4. Provide airport sponsors with guidance on using leases and reserve bonds to recover the Federal share of disposal proceeds.

FAA Agrees! We will develop and issue guidance on leasing, both as a handout in training sessions and as program guidance by the end of FY 2006.

➤ Proposed Noise Land Disposal Effort (OIG Audit)

Recommendation 5 & 6. For the 11 airports included in the audit, we recommend that the Federal Aviation Administrator direct airport sponsors to develop and implement plans to:

Recover FAA's share (estimated at \$160.6 million) from the disposition of 3,608 unneeded noise land acres.

Recover FAA's share (estimated at \$81.7 million) of the affected land's fair market value from airports that are misusing noise land disposition proceeds.

➤ Proposed Noise Land Disposal Effort (OIG Audit)

FAA Agrees, w Comment! Preparing the land inventory will be the first step to meeting these recommendations. The land inventory will identify unneeded land as well as land to be retained. The excess land will be appraised at its current value as Raw Land for Redevelopment to the Highest and Best Use of Land (compatible land use w restrictions). As described in the FAA response to the OIG report, the OIG estimate (\$160.6 million) is not considered a reliable value. When released for disposal, an acceptable appraisal will confirm the current fair market value of an excess land parcel.

➤ Fair Market Value Standard for Land Disposal

Statutory Requirement – Assurance 31- Disposal of Land whether noise land or not

PGL 05-03 <http://www.faa.gov/arp/financial/aip/guidance/PGL05-03.pdf>

Real Property = \$\$\$ When Sold or Leased

There is No Loss in Value to the Airport on A Sale/Lease of its Surplus/Obligated Property at FMV \$\$\$

➤ Fair Market Value Standard for Land Disposal

What is the FMV for Redevelopment?

- **Market Value = Sale to the Highest Bidder**
- **What is the Highest and Best Use? “As Is” or for Development?**
- **Raw Land is Appraised Based On Demand by Developers to Develop It (If Any?).**

To Appraise Raw Land A Qualified Appraiser Will:

- ü **Determine and Support Development Entitlements for the Land per Local/State Land Development Law**
- ü **Find and Analyze Comparable Sales of Raw Land (Same or Comparable Market)**
- ü **Include the “Development Approach”? (If “New Land” creates a market)**
 - Net Present Value – What Developer Can Afford to Pay for Land*
 - Capitalization Rate = Market Rate of Return On and Of Investment*
 - Comparable Sales – What Developers Have Paid*

➤ Fair Market Value Standard for Land Disposal

What is FMV for Ground Leases

- Rent Escalators To Adjust Rent Over Time (at least offset inflation)
- At Appraised Values (Market Conditions Change Over Time)
- Leased Value of the Land Should Equal Its Fee Value (***For Sale Value***)
 - **Fee Value = Leased Fee + Leasehold**
 - **Leased Fee = PV Rent Payments + PV Property Reversion**

If Leased Fee Value is less than FeeValue, than Property Value is Lost to Leasehold
 - **Rent @ Market with Consideration of Reversion Will Preserve Value**
 - **Market Determines Overall Capitalization Rate for the Property**
- Commercial Ground Lease Practices are the Standard for Appraisal

➤ What's Coming Next?

FAA Actions - FAA teams are:

Giving Training to Regional Conferences and other groups

Developing guidance – under review by Noise Land Team, general coordination will begin shortly

Airports Actions:

Airports should begin reviewing their noise land program

Developing their noise land maps

Developing their noise land disposal plans

Audited airports should begin working with their FAA regional folks

- Suggestions/Comments?
- Questions?